

**BEFORE THE ADMINISTRATIVE HEARING COMMISSION  
STATE OF MISSOURI**

**FILED**

APR 06 2010

ADMINISTRATIVE HEARING  
COMMISSION

**DIRECTOR OF THE DEPARTMENT )  
OF INSURANCE, FINANCIAL )  
INSTITUTIONS AND PROFESSIONAL )  
REGISTRATION )  
STATE OF MISSOURI, )**

**Petitioner,**

**vs.**

**TITAN TITLE & CLOSING OF )  
MISSOURI, LLC, )**

**Respondent.**

**Case No.: 10-0490 DI**

**FIRST AMENDED COMPLAINT**

The Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration, through counsel, complains and requests the Administrative Hearing Commission find that cause exists to discipline the license held by Respondent, Titan Title & Closing of Missouri, LLC, because:

**INFORMATION RELEVANT TO ALL COUNTS**

1. Petitioner is the duly appointed Director of the Missouri Department of Insurance, Financial Institutions and Professional Registration (hereinafter, "Director") whose duties, pursuant to Chapters 374, 375, and 381, RSMo, include the supervision, regulation, and discipline of title insurance producers.

2. Respondent Titan Title & Closing of Missouri, LLC ("Titan") is a business entity insurance producer first licensed by the Department of Insurance, Financial Institutions and Professional Registration ("Department") on March 28, 2008. (License No. 8024283). Titan's license is set to expire on March 28, 2012.

3. Section 381.141.1, RSMo, (Supp. 1999), states, in part:

No title insurer or title agent or agency shall:

1. Pay, directly or indirectly, to the insured or to any other person any commission, any part of its premiums, fees, or other charges; or any other consideration as inducement or compensation for the referral of title business or for performance of any escrow or other service by the title agent or agency; or

2. Issue any title insurance policy or perform any service in connection with any transaction in which it has paid or intends to pay any commission, rebate or inducement which it knows to be in violation of this section.

4. The Commission has jurisdiction over this Complaint pursuant to § 621.045, RSMo (Supp. 2009).

### COUNT I

5. Titan violated § 381.141.1.1, RSMo (Supp. 1999),<sup>1</sup> which is a ground to discipline its license pursuant to § 375.141.1(2), RSMo (Supp. 2009).

6. The facts are as follows:

- a. In October 2008, the Department's Consumer Affairs Division ("Division") received a complaint about a marketing flyer that offered free closings to consumers who brought their transaction to Titan.
- b. The Division forwarded the complaint to Titan with a letter that required a response within 20 days. Titan received the Division's letter dated October 24, 2008, on October 28, 2008.

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<sup>1</sup> Section 381.141 is not published in the current edition of the Missouri Revised Statutes, but it remains in effect. The statute was repealed by Senate Bill 894 (2000), but reinstated after the Missouri Supreme Court ruled SB 894 unconstitutional in the case of *Home Builders of Greater St. Louis v. State of Missouri*, 75 S.W.3d 267 (Mo. Banc 2002). Section 381.141, RSMo (Supp. 1999), is attached for the Commission's convenience.

- c. By letter dated November 7, 2008, (*attached as Exhibit 1, page 3*) and affidavit dated November 3, 2009, (*attached as Exhibit 2*) Titan owner, Joseph Passanise, stated that the marketing flyer supplied by the complainant was a correct copy of the flyer distributed by Titan. (*See Exhibit A, attached to Exhibit 2*).
- d. The marketing flyer appears on Titan letterhead and states:

SAVE \$300 AT CLOSING  
In November at  
Titan Title and Closing

Here at Titan Title and Closing of Missouri we are striving to take a little bit of the stress off these times by offering your buyers and sellers a free closing with the purchase of title insurance through Titan Title in the month of November.

Because of this amazing offer our openings are filling up fast so please contact us as soon as possible to take advantage of this opportunity.

Sincerely,  
Molly Steffes  
Marketing Director

Phone: 417-882-2100/Fax: 417-882-2103

\*Offer to include only the closing fee of \$300.00 split between buyer and seller

\*Purchase of title insurance through Titan Title is required

\*All other fees excluded from this offer, offer good from Nov 1 to Nov 30, 2008

- e. Real estate closings cost Titan \$300. As of November 7, 2008, one person had accepted Titan's free closing offer and scheduled a November 2008 closing. Twenty-four closings were conducted in November 2008 and all received a free closing with the purchase of title insurance through Titan. (*Exhibit 1*).

7. Titan's offer and provision of free real estate closing services to consumers who purchased insurance through Titan constitutes the payment of a part of Titan's premiums, fees, or other charges, for the referral of title business, or constitutes

consideration that induced customers to purchase title insurance through Titan, or improperly compensated customers for purchasing title insurance through Titan, which is prohibited by § 381.141.1.1, RSMo (Supp. 1999).

## COUNT II

8. Titan violated § 381.141.1.2, RSMo (Supp. 1999), by issuing title insurance policies and performing closing services in connection with transactions in which it paid or intended to pay commissions, rebates, or inducements which it knew to be in violation of § 381.141.1.1, RSMo (Supp. 1999). Each illegal transaction is a ground to discipline Titan's license pursuant to § 375.141.1(2), RSMo (Supp. 2009).

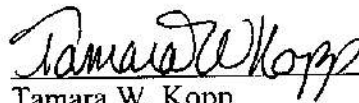
9. Petitioner realleges and incorporates the facts in paragraphs 1 – 7, above, as thought fully set forth herein.

10. By letter dated November 7, 2008, Titan acknowledged that it was aware of a problem with its free closing offer. (*Exhibit I*). Yet, Titan continued to provide free closings to all consumers who purchased title insurance through Titan in November 2008.

11. All free closings conducted by Titan and title insurance policies issued by Titan between November 7, 2008 and November 30, 2008 were done with knowledge that such activities violated § 381.141.1.1, RSMo (Supp. 1999).

**WHEREFORE**, based on the foregoing, Petitioner respectfully requests that the Commission make findings of fact and conclusions of law stating that Petitioner has established cause to discipline Respondent Titan Title & Closing of Missouri, LLC's business entity insurance producer license pursuant to § 375.141.1(2), RSMo (Supp. 2009).

Respectfully submitted,



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ATTORNEY FOR PETITIONER  
Director of the Missouri Department  
of Insurance, Financial Institutions  
and Professional Registration

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and correct copy of the foregoing, including all attachments, was mailed first class, with sufficient postage attached, via the United States Postal Service on this 6th day of April, 2010 to:

Registered Agent  
Robert Carlyle Butler, III  
302 South Street  
Ozark, Missouri 65721

